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What is Adoption in Indiana?

- **Indiana Law:** Legal process of termination of biological parents' rights and granting of those rights and obligations to new parent(s). IC 31-19 et al.
- Adoption is a statutory process. There is no common law cause of action for adoption. Therefore, statutes and rules are the sole source of the Court's jurisdiction.

Types of Adoption

- **Domestic Adoption:** Termination of parental rights in biological or legal parents and transfer of all parental rights and obligations to adoptive parent(s).
 - Adoptive parents must take legal action to terminate biological or legal parental rights (Consent, Implied Consent, Abandonment or Termination by Court Action).
- **Foster to Adopt:** Child is removed from biological/legal parents due to neglect or abuse; Child becomes a ward of the State (responsibility).
- **Agency Adoption:** Adoptive parents use an adoption agency (licensed child placing agency) to find a child/birth parent for them; agency facilitates entire process.
- **Attorney Adoption (Private Adoption):** Adoptive parents locate the child and do not use a third party (agency). They request attorneys to complete the adoption and the attorney(s) advise all parties, file with the court all necessary pleadings and legally finalize the adoption.
- **Stepparent Adoption:** A stepparent adopts the child of their spouse. Considerations must be given to biological parent's rights.
- **Disruption** (or Adoption Dissolution): Child already adopted by first parents and first parents want to find another placement for child.
- **Second Parent Adoption:** Second parent adoption is a legal procedure that allows same-sex couples to adopt their partner's biological or adopted child(ren) without terminating the first parent's parental rights.
- **Intercountry Adoption:** Process by which a family adopts a child from a country other than their own through permanent legal means and brings that child to the parent's country of residence to live with them permanently. It is similar to domestic adoption in that both consist of the legal transfer of parental rights and responsibilities from a child's birth parent(s) or other guardian to a new parent or parents.

Putative Father Issue

In Re B.W., 908 N.E.2d 586 (Ind. 2009). The Court held that under IC 31-19-9-12(1), to be deemed to have implied his irrevocable consent to an adoption, a putative father must have failed to file both a paternity action and a motion to contest the adoption. The Court held that the statute's plain language authorizes a court to determine irrevocable implied consent only when a putative father fails in both respects, i.e., only when, within thirty days after receiving notice of the adoption petition, the putative father fails both to file a motion to contest the adoption and also to file a paternity action. But if he does either within the thirty-day time period, this precludes a court from finding his implied irrevocable consent to the adoption under this section.

Boehm, J, concurred with separate opinion “to observe that these statutes, taken together, seem to provide multiple opportunities for confusion or even intentional obfuscation,” and with the hope that “the General Assembly will consider requiring that a putative father wishing to contest an adoption or declare paternity must file in the court in which an adoption action is pending or otherwise assure consolidation of these two proceedings...”

Shepard, C.J., dissented, stating among other things, that the majority’s ruling may help “the occasional blunderer, like the inmate in this case,” but will also provide a tool for obstructionists to use in preventing the expeditious placement of eligible children.

Intercountry Adoption

- **Intercountry v. Domestic:** Intercountry adoptions are different from domestic adoptions because of the laws that make it possible to bring the child to live where the adoption family lives. Generally, to qualify as an adoption for immigration purposes into the United States, the adopted child must have the same status and relationship to the adoptive parents as a child by birth.
- **Adoption v. Guardianship:** What some countries call “adoptions” are more accurately described as guardianships under U.S. law and are not considered adoptions for U.S. immigration purposes.

Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption (Hague Adoption Convention)

- **Hague Adoption Convention:** An international agreement to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child.
- **Effective Date:** The Convention entered into force for the United States on April 1, 2008.

The Hague Adoption Convention applies to adoptions between the United States and the other countries that have joined it, though the Intercountry Adoption Universal Accreditation Act of 2012 (UAA) requires that adoption service providers handling non-Hague Adoption Convention cases follow the same accreditation or approval process required of adoption service providers that handle Hague Adoption Convention cases.

Intercountry Adoption Universal Accreditation Act of 2012 (UAA)

- **UAA:** A federal law requiring that all adoption service providers will need to comply with the same standards of practice and conduct as required by the Hague Convention and effectively applying the Hague Convention to all countries from which Americans can adopt, even if that country itself is not a party to the Hague Convention.
- **Effective Date:** The UAA went into effect on July 14, 2014.

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The practical implications of the UAA is that any Indiana family adopting internationally must use a Hague accredited or approved adoption service provider for their intercountry adoption.

Home Study for Intercountry Adoption

- **Home study:** The home study is a required document that must be submitted to U.S. Citizenship and Immigration Services (USCIS) for all non-Hague and Hague adoption cases. Home studies in all international adoption cases, including home study updates and amendments, must comply with the Hague Adoption Convention home study requirements, which differ from the home study requirements in effect for non-Hague cases before UAA went into effect.
- **Purpose:** The primary purpose of the home study is to help USCIS determine whether the prospective adoptive parents are suitable and eligible to adopt a child, based on the criteria that have been established by law.

Any Hoosier family adopting internationally, whether from a non-Hague or Hague country, must submit to USCIS a home study conducted by a Hague accredited or approved adoption service provider, located in Indiana, who is authorized to conduct home studies for Hague Adoption Convention cases.

Readoption after Intercountry Adoption

- **Readoption:** The common term used for the domestication of a foreign decree of adoption. This is the legal process of asking a court in the parents' state to accept their child's foreign decree of adoption as if the adoption had occurred in their state of residence.
- **Benefits:** When a judge signs the readoption order, the child receives all of the same rights and privileges that would be afforded to a child adopted in the parents' state. Readopting a child provides a state issued adoption decree, a state birth certificate, a legal name change for the child, and if necessary, a legal change of birth date.

All Indiana families who have adopted internationally should readopt their child through the Indiana court system to ensure their child receives the benefits associated with domesticating the foreign adoption decree.

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